IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.217 OF 2005

Smt.Alka @ Sajabi H. Salunkhe
& Others .. Appellants
(Original Defendants)

vs.

Smt. Dwarkabai H. Salunkhe
& Others .. Respondents
(Original Plaintiffs)

Shri Dilip Bodke, Advocate for the Appellants.

Shri R.A.Thorat, Advocate for the Respondent No.1.

CORAM : A.S.OKA, J.

DATED : 16th March, 2005.

P.C. :

1. Heard learned Counsel appearing for the parties. The learned Joint Civil Judge, Senior Division, Satara, allowed the application under Section 372 of the Indian Succession Act, 1925 for grant of Succession Certificate in favour of the Respondents. There was an appeal preferred against the Judgment and Order of the trial Court. The Appellate Court has dismissed the appeal.

2. The learned Jt. Civil Judge, Senior

Division has entertained the application made by the Respondent as he is invested with the power of the District Judge to entertain the application under Section 372 of the said Act of 1925. In view of sub-section 3 of Section 388 of the said Act of 1925 there is no further appeal provided against the judgment of the District Judge delivered in Appeal preferred under proviso to sub-section 2 of Section 388 and the order of District Judge in Appeal is final subject to provisions as to reference and revision by High Court.

3. In any event, the impugned judgment and order passed by the trial Court is not a decree and therefore the Second Appeal is not maintainable.

. Second Appeal is dismissed as not maintainable.

. The dismissal of the Second Appeal will not preclude the appellants from adopting the appropriate proceeding for challenging the

impugned judgment and order.

. Parties to act on the authenticated copy of this order.

(A.S.Oka,J.)